

VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Henrico VA 23233-1463
Board Room #2, Second Floor
April 24, 2012 at 10:30 a.m.

BOARD MEETING AGENDA

CALL TO ORDER

ORDERING OF AGENDA

ACCEPTANCE OF MINUTES – Tab 1

- Board Meeting – January 17, 2012
- (2) Formal Hearings – January 17, 2012
- Possible Summary Suspension – January 17, 2012
- Formal Hearing – January 18, 2012
- Formal Hearing – March 8, 2012

INFORMAL CONFERENCES HELD

- January 17, 2012
- January 17, 2012
- January 18, 2012

PUBLIC COMMENT PERIOD

EXECUTIVE DIRECTOR'S REPORT – Tab 2

NEW BUSINESS

- Legislative/Regulatory Reports– **Lisa R. Hahn - Tab 3**
- Legislative/Regulatory Committee Report – **Junius Williams, Chair**
- Guidance Document regarding Practicing on Expired License – **Lisa R. Hahn – Tab 4**
- Petition for Reconsideration of Board Order– **Tab 5**
- Election of Officers

Tab 1

UNAPPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS
BOARD MEETING MINUTES

The Virginia Board of Funeral Directors and Embalmers convened for a board meeting on Tuesday, January 17, 2012 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #2, Henrico, Virginia.

BOARD MEMBERS PRESENT

Robert B. Burger, Jr., FSP, President
Blair Nelsen, FSP, Vice-President
Junius Williams, Citizen Member, Secretary-Treasurer
Randolph T. Minter, FSP
Michael J. Leonard, FSP
Walter Ball, Citizen Member
Robert Oman, FSP
Christopher P. Vincent, FSP
Eric V. Wray, II, FSP

DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING

Lisa R. Hahn, Executive Director
Lynne Helmick, Deputy Executive Director
Elaine J. Yeatts, Senior Policy Analyst
Missy Currier, Board Operations Manager

BOARD COUNSEL

Howard Casway, Senior Assistant Attorney General

QUORUM

With 9 members present a quorum was established.

GUESTS PRESENT

Barry D. Robinson, Virginia Morticians Association
Lacy Whittaker, Virginia Funeral Directors Association
Meredyth Partridge, Regulatory Support Services, Inc.
Markell Elder, Department of Health Professions

CALL TO ORDER

Mr. Burger, President, called the meeting of the Virginia Board of Funeral Directors and Embalmers to order at 10:05 a.m. by welcoming everyone and asking the members and the guests in the audience to introduce themselves.

ORDERING OF AGENDA

The agenda was accepted as amended by rearranging the order of the Executive Directors Report to begin with the Legislative/Regulatory report and by adding a draft guideline document under New Business.

ACCEPTANCE OF MINUTES

- Upon a motion by Mr. Williams, Jr. and properly seconded by Mr. Leonard, the Board voted to accept the Board Meeting Minutes dated October 18, 2011. The motion carried unanimously.
- Upon a motion by Mr. Minter and properly seconded by Mr. Oman, the Board voted to accept the Formal Hearing Minutes dated October 18, 2011. The motion carried unanimously.

INFORMAL CONFERENCES HELD

Mr. Burger shared that informal conferences were held on the following days and that the minutes are located on the board's website and regulatory Townhall.

- May 24, 2011
- August 9, 2011
- September 28, 2011
- October 18, 2011
- November 16, 2011

PUBLIC COMMENT PERIOD

Mr. Barry Robinson from Virginia Morticians Association requested that they be invited to the Legislative/Regulatory meeting when it is held.

NEW BUSINESS

Ms. Yeatts reviewed the status of the following regulations pertaining to **18VAC65-20**:

- Identification of human remains – remain at the Governor's Office (432 days)
- NOIRA regarding fee increases – remain at the Secretary's Office (386 days)

Ms. Yeatts reviewed the status of regulations pertaining to **18VAC65-30**:

- Fast-Track regarding termination of irrevocable trusts – remain at Governor's Office (432 days)

Exempt Regulatory Action – Adoption of amendment to conform Preneed regulations with Funeral Rule (18VAC 65-30)

Ms. Yeatts stated that the regulatory change became effective on December 21, 2011.

Ms. Yeatts gave an overview of the following bills submitted before the 2012 General Assembly that may directly or indirectly affect the Agency: HB 195; HB 260, HB 265, HB 272, HB 337, HB 378, HB 379, HB 439, HB 937, HB 938, HB 1056, SB 433

The board members responded to the following bills:

HB 439 & HB 1056 – bills to amend and reenact § 54.1-2808.1 of the Code of Virginia relating to veterans and the disposition of cremains. Motion was made by Mr. Williams, Jr. and properly seconded by Mr. Leonard for Ms. Yeatts to craft a proposed amended bill that would incorporate and include portions of HB 439, HB 1056. The motion carried unanimously.

HB 379 – upon a motion by Mr. Leonard and properly seconded by Mr. Oman, the board voted to support a three year moratorium to study Alkaline Hydrolysis. The motion carried unanimously.

HB 378 – The board is in favor of allowing the one hour covering compliance with laws and regulations governing the profession to include both federal and state law.

Ms. Yeatts concluded her report by recommending that the board wait until the conclusion of the 2012 general assembly session before forming any Adhoc committees.

EXECUTIVE DIRECTOR'S REPORT

Expenditure and Revenue Summary

Ms. Hahn stated that the beginning cash balance as of June 30, 2011 was \$26,516, revenue received for FY 12 was \$27,055 less the direct and allocated expenditures of \$265,301 leaving a cash balance as of November 30, 2011 of \$(211,731). Ms. Hahn shared that she has taken numerous steps to “tighten our belts” and takes pride in being a good fiscal steward for the board but that she has run out of areas to cut. She added that 66% of the costs were those out of her control such as VITA, investigation costs, agency shared costs. Ms. Hahn has provided a briefing document for Dr. Reynolds-Cane that might be helpful in her discussions with the Secretary's office.

Licensee Statistics

Ms. Hahn referred the members to the handout provided with updated statistics.

Discipline Statistics

Ms. Hahn referred the members to the handout provided with updated statistics. Ms. Hahn added that 5 compliance inspections have been ordered and that 7 funeral board cases are monitored by Missy Currier. She added that Ms. Currier had been given the responsibility of Compliance Case Manager in addition to Board Operations Manager for all three of Ms. Hahn's boards. Ms. Hahn concluded that there were 24 total compliance cases being monitored by Missy Currier and Lynne Helmick for all three boards.

Virginia Performs – 1st Quarter ending September 30, 2012

Ms. Hahn gave the following Virginia Performs results: 100% rating for issuing licenses in less than 30 days; a 100% rating for patient care cases closed within 250 days; customer satisfaction was at 100%; and the clearance rate was at 300%. She concluded her report by stating that she contributes great results to her outstanding staff.

Presentations

Ms. Hahn mentioned several presentations that board staff or board members have committed to already in 2012. Ms. Hahn mentioned that she had received a couple of suggestions from the associations as well as from a couple of board members regarding alternative ways to fulfill the demand for board presentations. She discussed Polycom to the board and said it was a new method available to DHP for holding live seminars via video conference. Ms. Hahn stated that she prefers the "in person" approach versus the Polycom approach but travel costs and staff time must also be considered in the decision. She concluded that her most viable solution would be to offer a couple of presentations per year, held at DHP, and to include Virginia Law as well as Preneed.

Maryland Reciprocal Agreement

Ms. Hahn stated that Dr. Hari P. Close had planned on attending the board meeting to officially sign the Reciprocal agreement but due to circumstances he could not make it. Therefore, the signing of the agreement would take place via us postal mail.

Ms. Hahn also shared that it had come to her attention that differences exist between a Virginia Courtesy Card Holder and a Maryland Courtesy Card Holder and what each licensee is allowed to do in each state. Staff is researching the matter and will report back their findings at the next board meeting.

Regulatory News

Ms. Hahn shared that she and Ms. Yeatts had a very good meeting with Delegate Alexander to review potential funeral issues for the 2012 General Assembly session.

Ms. Hahn provided the members with a copy of the letter from Ben Lacy, Attorney for SansAnderson and her response back regarding legislation he would be submitting regarding the removal of the 5% CPI rule.

Visible Identification when a body has been disinterred and the family wants to cremate

Ms. Hahn shared that Mr. Nelsen had contacted Dr. Leah Bush following the boards discussion during the October 2011 meeting and that her response was that burial is considered final disposition in Virginia, as long as the information on the disinterment permit matches the tags on the casket or body.

Website News

Ms. Hahn wanted the board to know that as she promised during the last meeting, information from the Virginia Department of Veteran Services on the program for unclaimed cremains of veterans had been added to the website.

She also mentioned that copies of the letters from Dr. Karen Remley, State Health Commissioner, regarding death certification are on the website and may be useful to reference if problems arise with a death certificate.

Newsletter

Ms. Hahn was pleased to share that Missy Currier had done a wonderful job assisting with the development of the draft newsletter and that the final copy will be distributed by the end of the month.

Calendar

Ms. Hahn announced the scheduled dates for the next meetings in 2012; April 24th, July 17th, and October 16th.

Paperless

Ms. Hahn asked the board how they were with going “paperless” for the meetings and they all replied that they were pleased with the change.

OTHER BUSINESS

Cremation Certification Course

Mr. Oman mentioned that it has been brought to his attention that the Cremation Certification Course that the board requires is difficult for many to complete because the course offerings are held infrequently or outside of Virginia. Mr. Nelsen mentioned that he would contact ICCFA to see what alternatives might be available to make the requirement less cumbersome.

Board of Health Professions

Mr. Nelsen mentioned that at his last BHP board meeting, he brought up the difficulties in getting death certificates signed during the holidays. He requested that the Boards of Medicine and Nursing convey who is now authorized to sign death certificates.

Draft Guidance Document – Lisa Hahn & Lynne Helmick

Ms. Hahn stated that she and Ms. Helmick drafted a guidance document addressing licensees who fail to respond to inspection deficiencies in a timely manner.

Upon a motion by Mr. Wray and properly seconded by Mr. Vincent, the board voted to adopt the following Guidance Document 65-17. The motion passed unanimously.

Virginia Board of Funeral Directors and Embalmers

Initiating Disciplinary Action Against Funeral Homes for Failing to Submit Corrective Action to Deficiencies Noted During Routine Inspections

1. Board staff reviews all inspection reports and responses to deficiencies cited during the inspections
 - a. Licensees are given information at the time of inspection that they are to respond to the deficiencies within 14 days of the inspection.
 - b. Board staff tracks receipt of the inspection reports and the deficiency corrections.
2. If the licensee fails to respond within 14 days of the inspection
 - a. Board staff will send a certified letter (a copy of the letter will be sent first class mail) to the Manager of Record's (MOR) address of record in 2-5 days of the response due date. The letter will include a new due date which will be 10 days after the date of the letter.
 - b. Board staff will initiate disciplinary action against the funeral home 5 days after second due date if there is no response.
 - c. A Pre-hearing Consent Order based on the following guidelines will be sent to the MOR:
 - i. \$100 monetary penalty for failing to respond in a timely manner plus \$100 additional penalty for each citation of deficiency.
 - ii. FH must submit acceptable corrective action.
 - iii. \$100 penalty will be added for each week after the deadline the PHCO remains unsigned, unless a special conference committee has been requested by the licensee.
 - d. If the licensee fails to respond to the pre-hearing consent order or does not agree to it, the matter will be referred to an informal conference.
3. If the licensee responds with unacceptable corrective action

- a. A letter will be sent to the MOR's address of record in 2-5 days after the Board received the correction action to inform the MOR of problems with the corrective action. The letter will include a new due date, which will be 10 days after the date of the letter, for additional corrections.
 - b. If the funeral home fails to respond with new corrections within the new deadline, a certified letter will be sent to the MOR's address of record in 2-5 days of the deadline (a copy of the letter will be sent first class mail). The letter will include a new due date which will be 7 days after the date of the letter.
 - c. Disciplinary action against the funeral home will be initiated 5 days after the third due date.
 - d. A Pre-hearing Consent Order based on the following guidelines will be sent to the MOR:
 - i. \$100 monetary penalty for failing to respond in a timely manner plus \$100 additional penalty for every citation not addressed.
 - ii. FH must submit acceptable corrective action.
 - iii. \$100 penalty will be added for each week after the deadline the PHCO remains unsigned, unless a special conference committee has been requested by the licensee.
 - e. If the licensee fails to respond to the pre-hearing consent order or does not agree to it, the matter will be referred to an informal conference.
4. If the licensee has been previously disciplined for failing to respond to inspection citations of deficiencies, the matter should be referred to the Special Conference Committee.
 5. Nothing in this Guidance Document prevents the Board from taking disciplinary action against the Manager of Record.

ADJOURNMENT:

With no further business before the Board, the meeting adjourned at 11:48 a.m.

Robert B. Burger, Jr., President

Lisa R. Hahn, Executive Director

Date

Date

**UNAPPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS
POSSIBLE SUMMARY SUSPENSION
MINUTES**

The Virginia Board of Funeral Directors and Embalmers convened a conference for consideration of a possible summary suspension on Tuesday, January 17, 2012 at 11:30 a.m.

MEMBERS PRESENT

Bob Burger, FSP, Chair
Blair Nelsen, FSP
Junius William, Jr.
Randy Minter, FSP
Christopher Vincent, FSP

Mike Leonard, FSP
Bob Oman, FSP
Walter Ball
Eric Wray, FSP

DHP STAFF PRESENT

Lisa R. Hahn, Executive Director
Lynne Helmick, Deputy Executive Director
Kathy Petersen, Discipline Operations Manager
Missy Currier, Board Operations Manager
Peter Oppen, Adjudication Specialist, Administrative Proceedings Division

MEMBERS FROM THE OFFICE OF THE ATTORNEY GENERAL PRESENT

James Schliessmann, Assistant Attorney General, OAG
Howard Casway, Senior Assistant Attorney General, OAG Board Counsel

MATTER SCHEDULED

Carlos A. Howard, FSP
License No: 0502-780010
Case Number: 133555, 134613, 140424, 140985

Carlos A. Howard Funeral Home
License No.: 0501-000601
Case Number: 140992

INTRODUCTION

Ms. Hahn opened the meeting by thanking everyone for their time and summarized the topic for consideration in today's conference.

CALLED TO ORDER

Mr. Burger called the meeting to order at 12:18 p.m.

ROLL CALL

A roll call was taken with nine (9) members of the Board participating, a quorum was established.

MEETING

Mr. Schliessmann presented evidence that the continued practice of funeral service by Carlos A. Howard, FSP and Carlos A. Howard Funeral Home, present a substantial danger to the health, welfare and safety of the public. Mr. Schliessmann asked the Board to consider summarily suspending the license of Mr. Howard and Carlos A. Howard Funeral Home.

CLOSED SESSION

Upon a motion by Mr. Blair Nelsen, and duly seconded by Mr. Eric Wray, Mr. Nelsen entered the Board into a closed meeting at 12:40 p.m. pursuant to §2.2-3711.A(27) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of Carlos A. Howard, FSP and Carlos A. Howard Funeral Home. Additionally, he moved that Ms. Hahn, Ms. Helmick, Ms. Petersen, Ms. Currier and Mr. Casway attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its discussions.

RECONVENE

Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the Code, the Committee re-convened in open session at 1:07 p.m.

DECISION:

Upon a motion by Mr. Nelsen, and duly seconded by Mr. Christopher Vincent, the Board moved to summarily suspend the licenses of Carlos A. Howard, FSP and Carlos A. Howard Funeral Home.

A roll call was taken and the motion passed unanimously with no negative votes.

The Board has set a tentative date for the Formal Hearing for March 8, 2012.

ADJOURNMENT

With no further business the meeting adjourned at 1:09 p.m.

Robert Burger, Jr., FSP, Chair

Lisa R. Hahn, Executive Director

Date

Date

**UNAPPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS & EMBALMERS
FORMAL ADMINISTRATIVE HEARING
JANUARY 17, 2012**

The Virginia Board of Funeral Directors and Embalmers convened on January 17, 2012, at the Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Board Room 2, Henrico, Virginia.

**BOARD MEMBERS
PRESENT:** Mike Leonard, FSP, Chair
Junius H. Williams, Jr., Secretary-Treasurer
Bob Oman, FSP
Chris Vincent, FSP
Eric Wray, FSP
Walter S. Bell, Citizen Member

**DHP STAFF
PRESENT:** Lisa R. Hahn, Executive Director
Lynne Helmick, Executive Deputy Director
Kathy Petersen, Discipline Operations Manager
Missy Currier, Board Operations Manager
Tammie Jones, Adjudication Specialist
Marta Ishmael, Senior Investigator

**MEMBERS FROM
THE OFFICE OF
THE ATTORNEY
GENERAL
PRESENT:** Howard Casway, Senior Assistant Attorney General, Board Counsel
Wayne Halbleib, Senior Assistant Attorney General

**RESPONDENT'S
COUNSEL :** Samantha Fredieu, Esq.

COURT REPORTER: Crane-Snead & Associates

CALL TO ORDER The Formal Administrative Hearing of the Board was called to order at 1:18 p.m.

**ESTABLISHMENT
OF A QUORUM:** With six (6) members of the Board present, a quorum was established.

**MATTER
SCHEDULED:** Sean Cummings, FSP
License Number: 0502-900567
Case Number: 137365

DISCUSSION: Mr. Cummings appeared before the Board in accordance with the Notice and Statement of Particulars dated December 22, 2011. Mr. Cummings was represented by Samantha Fredieu, Esq.

The Board received evidence and sworn testimony regarding the matters as set forth in the Statement of Particulars.

CLOSED SESSION: Upon a motion by Mr. Wray, and duly seconded by Mr. Oman, the Board voted to convene a closed meeting pursuant to 2.2-3711.A(27) of the *Code of Virginia*, for the purpose of deliberation to reach a decision in the matter of Mr. Cummings. Additionally, Mr. Wray moved that Ms. Hahn, Ms. Currier, and Mr. Casway attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The Board convened into closed session at 2:24 p.m.

OPEN SESSION: Having certified that the matters discussed in the preceding closed session met the requirements of 2.2-3712 of the *Code of Virginia*, the Board re-convened open session at 3:16 p.m.

ACTION: Upon a motion by Mr. Williams, and duly seconded by Mr. Wray, the Board voted to place the funeral service provider license of Mr. Cummings on SUSPENSION for a period of 12 months. Mr. Cummings shall pay a monetary penalty of \$5,000.00, shall not serve as a Manager of Record for any funeral establishment and shall notify the Board of the name of the Manager of Record for his facility. Mr. Cummings suspension shall be STAYED upon compliance with terms and conditions after six months of suspension. The motion was carried.

VOTE: The vote was unanimous, with six (6) affirmative votes.

ADJOURNMENT: The Board adjourned at 3:20 p.m.

The decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

Mike Leonard, FSP, Chair

Lisa R. Hahn, Executive Director

Date

Date

UNAPPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS & EMBALMERS
FORMAL ADMINSTRATIVE HEARING
JANUARY 17, 2012

The Virginia Board of Funeral Directors and Embalmers convened on January 17, 2012, at the Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Board Room 2, Henrico, Virginia.

BOARD MEMBERS PRESENT: Robert B. Burger, Jr., FSP, President
Junius H. Williams, Jr., Secretary-Treasurer
Mike Leonard, FSP
Bob Oman, FSP
Chris Vincent, FSP
Eric Wray, FSP
Walter S. Bell, Citizen Member

DHP STAFF PRESENT: Lisa R. Hahn, Executive Director
Lynne Helmick, Executive Deputy Director
Kathy Petersen, Discipline Operations Manager
Missy Currier, Board Operations Manager
Tammie Jones, Adjudication Specialist
Marta Ishmael, Senior Investigator

MEMBERS FROM THE OFFICE OF THE ATTORNEY GENERAL PRESENT: Howard Casway, Senior Assistant Attorney General, Board Counsel
James Schliessmann, Assistant Attorney General

RESPONDENT'S COUNSEL : Isaac McBeth, Esq. of Hirschler Fleischer

OTHERS PRESENT: Miriam AbdRahmaan, FSP
Robert D. Baker, FSP

COURT REPORTER: Crane-Snead & Associates

CALL TO ORDER The Formal Administrative Hearing of the Board was called to order at 3:58 p.m.

ESTABLISHMENT OF A QUORUM: With seven (7) members of the Board present, a quorum was established.

MATTER SCHEDULED: Phillip Bell, Sr., FSP
License Number: 0502-730043
Case Number: 133970

DISCUSSION: Mr. Bell appeared before the Board in accordance with the Notice and Statement of Particulars dated November 4, 2011. Mr. Bell was represented by Isaac McBeth, Esq. of the law firm Hirschler Fleischer.

The Board received evidence and sworn testimony regarding the matters as set forth in the Statement of Particulars.

CLOSED SESSION: Upon a motion by Mr. Wray, and duly seconded by Mr. Oman, the Board voted to convene a closed meeting pursuant to 2.2-3711.A(27) of the *Code of Virginia*, for the purpose of deliberation to reach a decision in the matter of Mr. Bell. Additionally, Mr. Wray moved that Ms. Hahn, Ms. Currier, and Mr. Casway attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The Board convened into closed session at 6:34 p.m.

OPEN SESSION: Having certified that the matters discussed in the preceding closed session met the requirements of 2.2-3712 of the *Code of Virginia*, the Board re-convened open session at 7:06 p.m.

ACTION: Upon a motion by Mr. Williams, and duly seconded by Mr. Oman, the Board found that there existed no clear and convincing evidence to support findings of any violation of the laws and regulations governing funeral service providers set out in the Notice of Formal Hearing. The motion carried.

VOTE: The vote was unanimous, with seven (7) affirmative votes.

ADJOURNMENT: The Board adjourned at 7:08 p.m.

The decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

Robert Burger, Jr., FSP, President

Lisa R. Hahn, Executive Director

Date

Date

**UNAPPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS & EMBALMERS
FORMAL ADMINISTRATIVE HEARING
JANUARY 18, 2012**

The Virginia Board of Funeral Directors and Embalmers convened on January 18, 2012, at the Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Board Room 2, Henrico, Virginia.

**BOARD MEMBERS
PRESENT:** Robert B. Burger, Jr., FSP, President
Junius H. Williams, Jr., Secretary-Treasurer
Mike Leonard, FSP
Bob Oman, FSP
Chris Vincent, FSP
Eric Wray, FSP
Walter S. Bell, Citizen Member

**DHP STAFF
PRESENT:** Lisa R. Hahn, Executive Director
Lynne Helmick, Executive Deputy Director
Kathy Petersen, Discipline Operations Manager
Missy Currier, Board Operations Manager
Peter Opper, Adjudication Specialist
Leith Ellis, Senior Investigator

**MEMBERS FROM
THE OFFICE OF
THE ATTORNEY
GENERAL
PRESENT:** Rachael Baer, Assistant Attorney General, Board Counsel
James Schliessmann, Assistant Attorney General

**RESPONDENT'S
COUNSEL :** Stephen H. Ratliff, Esq. – Counsel
Kimberley A. Murphy, Esq. – Co-Counsel

OTHERS PRESENT: Several family members and friends of Decedent A
Ralston O. Greene, FSP

COURT REPORTER: Comiller T. Boyd, Certified Court Reporter – Crane-Snead & Assoc.

CALL TO ORDER The Formal Administrative Hearing of the Board was called to order
at 9:36 a.m.

**ESTABLISHMENT
OF A QUORUM:** With seven (7) members of the Board present, a quorum was
established.

**MATTER
SCHEDULED:** Oliver P. Chiles, Jr., FSP
License Number: 0502-860019
Case Number: 136070

DISCUSSION: Mr. Chiles appeared before the Board in accordance with the Notice and Statement of Particulars dated December 13, 2011. Mr. Chiles was represented by Steven Ratliff, Esq. as counsel and Kimberley Murphy, Esq. as co-counsel.

The Board received evidence and sworn testimony regarding the matters as set forth in the Statement of Particulars.

CLOSED SESSION: Upon a motion by Mr. Leonard, and duly seconded by Mr. Oman, the Board voted to convene a closed meeting pursuant to 2.2-3711.A(27) of the *Code of Virginia*, for the purpose of deliberation to reach a decision in the matter of Mr. Chiles. Additionally, Mr. Leonard moved that Ms. Hahn, Ms. Currier, and Ms. Baer attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The Board convened into closed session at 2:17 p.m.

OPEN SESSION: Having certified that the matters discussed in the preceding closed session met the requirements of 2.2-3712 of the *Code of Virginia*, the Board re-convened open session at 4:27 p.m.

ACTION: Upon a motion by Mr. Oman, and duly seconded by Mr. Wray, the Board voted to place the funeral service provider license of Mr. Chiles on INDEFINITE SUSPENSION for not less than 12 months. Upon request for reinstatement, Mr. Chiles shall provide the Board with verification that he has completed ten (10) pre-approved hours of continuing education hours. Two (2) hours in state law and regulations governing funeral service and eight (8) hours in ethics. The motion was carried.

VOTE:

The vote was unanimous, with seven (7) affirmative votes.

ADJOURNMENT: The Board adjourned at 4:46 p.m.

The decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

Robert Burger, Jr., FSP, President

Lisa R. Hahn, Executive Director

Date

Date

**UNAPPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS & EMBALMERS
FORMAL ADMINISTRATIVE HEARING
MARCH 8, 2012**

The Virginia Board of Funeral Directors and Embalmers convened on March 8, 2012, at the Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Board Room 2, Henrico, Virginia.

**BOARD MEMBERS
PRESENT:** Robert B. Burger, Jr., FSP, President
Junius H. Williams, Jr., Secretary-Treasurer
Randy Minter, FSP
Mike Leonard, FSP
Bob Oman, FSP
Chris Vincent, FSP
Walter S. Bell, Citizen Member

**DHP STAFF
PRESENT:** Lisa R. Hahn, Executive Director
Lynne Helmick, Executive Deputy Director
Kathy Petersen, Discipline Operations Manager
Missy Currier, Board Operations Manager
Peter Opper, Adjudication Specialist
Anthony Sellers, Senior Investigator
Karen Schaller, Senior Investigator

**MEMBERS FROM
THE OFFICE OF
THE ATTORNEY
GENERAL
PRESENT:** Charis A. Mitchell, Assistant Attorney General, Board Counsel
James Schliessmann, Assistant Attorney General

**RESPONDENT'S
COUNSEL :** Kimberley A. Murphy, Esq. – Counsel
Samantha S. Fredieu, Esq. – Co-Counsel

OTHERS PRESENT: Leslie Keenan, FSL
Marjorie Allen
John Allen
Velma McClurney
Arlene Howard
Marie Barnett, FD
David Brisbon
Christine Austin-Williams
JoAnn Ware
James Arrington
Roderick D. Jenkins
Bill Thomas

COURT REPORTER: Lanieda Briggs, Certified Court Reporter – Crane-Snead & Assoc.

CALL TO ORDER The Formal Administrative Hearing of the Board was called to order at 9:49 a.m.

ESTABLISHMENT OF A QUORUM: With seven (7) members of the Board present, a quorum was established.

MATTER SCHEDULED: **Carlos A. Howard, FSP**
License Number: 0502-780010
Case Numbers: 140985, 133555, 134613 & 140424

Carlos A. Howard Funeral Home
License Number: 0501-000601
Case Number: 140992

PRELIMINARY MATTER: Mr. Schliessmann introduced two additional documents; an expert report of Ms. Leslie Keenan, FSL and several photographs provided by the source of case number 140985 and 140992. Ms. Murphy objected to the entry.

RULING: The objection was overruled by the Chair and the documents were entered into the record as Commonwealth Exhibits 7 and 8 and Commonwealth Exhibits 4 and 5 respectively.

PRELIMINARY MATTER: Ms. Murphy introduced a document to accompany the Commonwealth's Evidence 3 in both cases. Mr. Schliessmann had no objection.

RULING: The Chair entered Ms. Murphy's document into the record as page number 82B and 79B respectively.

PRELIMINARY MATTER: Ms. Murphy introduced additional documentation regarding information she had referenced in her opening remarks. Mr. Schliessmann had no objections.

RULING: The Chair accepted the additional documentation and ruled that it would be marked as Respondent Exhibit A, B, C, D and entered into the record.

DISCUSSION: Mr. Howard appeared before the Board in accordance with the Amended Notice and Statement of Particulars dated February 28, 2012. Mr. Howard was represented by Kimberley Murphy, Esq. as counsel and Samantha Fredieu as co-counsel.

The Board received evidence and sworn testimony from witnesses called by the parties and Mr. Howard regarding the matters as set forth in the Statement of Particulars.

During the course of testimony of the witnesses called to testify and

Mr. Howard, various objections were made and ruled on by the Chair.

CLOSED SESSION: Upon a motion by Mr. Leonard, and duly seconded by Mr. Williams, the Board voted to convene a closed meeting pursuant to §2.2-3711.A(27) of the *Code of Virginia*, for the purpose of deliberation to reach a decision in the matter of Carlos A. Howard, FSP and Carlos A. Howard Funeral Home. Additionally, Mr. Leonard moved that Ms. Hahn, Ms. Mitchell, Ms. Helmick, Ms. Petersen and Ms. Currier attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The Board convened into closed session at 5:53 p.m.

OPEN SESSION: Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the *Code of Virginia*, the Board re-convened open session at 8:08 p.m.

ACTION: Upon a motion by Mr. Leonard, and duly seconded by Mr. Ball, the Board voted to continue the SUSPENSION of the funeral service provider license of Carlos A. Howard, FSP for not less than 6 months, a monetary penalty of \$12,500 to be paid in full before reinstatement can occur. Upon reinstatement, Mr. Howard cannot serve as a Manager of Record for one year from the date of reinstatement. If Mr. Howard is found in violation of any laws or regulations relating to the practice of funeral service in the Commonwealth of Virginia, within two (2) years following entry of said Order, Mr. Howard's license will be revoked immediately.

In the matter of Carlos A. Howard Funeral Home, the Board voted to continue the SUSPENSION, until a new Manager of Record is approved by the Board. Upon reinstatement, Carlos A. Howard Funeral Home will be subject to six (6) unannounced inspections at the funeral homes expense. The motion was carried.

VOTE: The vote was unanimous, with seven (7) affirmative votes.

ADJOURNMENT: The Board adjourned at 8:17 p.m.

The decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

Robert Burger, Jr., FSP, President

Lisa R. Hahn, Executive Director

Date

Date

Tab 2

Virgina Department of Health Professions
Cash Balance
As of February 29, 2012

	<u>104- Funeral Directors and Emba</u>
Cash Balance as of June 30, 2011	\$ 26,516
YTD FY12 Revenue	215,920
Less: YTD FY12 Direct and In-Direct Expenditures	<u>436,461</u>
Cash Balance as of February 29, 2012	<u><u>\$ (194,025)</u></u>

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
July 1, 2011 through February 29, 2012

104- Funeral Directors and Emba				
	<u>Jul '11 - Feb' 12</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
Revenue				
2400 · Fee Revenue				
2401 · Application Fee	24,700.00	34,225.00	-9,525.00	72.17%
2406 · License & Renewal Fee	178,660.00	488,660.00	-310,000.00	36.56%
2407 · Dup. License Certificate Fee	120.00	480.00	-360.00	25.0%
2409 · Board Endorsement - Out	1,400.00	2,600.00	-1,200.00	53.85%
2421 · Monetary Penalty & Late Fees	1,890.00	5,395.00	-3,505.00	35.03%
2430 · Board Changes Fee	3,850.00	5,075.00	-1,225.00	75.86%
2432 · Misc. Fee (Bad Check Fee)	0.00	35.00	-35.00	0.0%
Total 2400 · Fee Revenue	210,620.00	536,470.00	-325,850.00	39.26%
9000 · Other Revenue				
Miscellaneous Revenue	0.00	5,700.00	-5,700.00	0.0%
9060 · Miscellaneous Revenue	5,300.00			
Total 9000 · Other Revenue	5,300.00	5,700.00	-400.00	92.98%
Total Revenue	215,920.00	542,170.00	-326,250.00	39.83%
Expenditures				
1100 · Personal Services				
1110 · Employee Benefits				
1111 · Employer Retirement Contrib.	3,777.75	4,909.03	-1,131.28	76.96%
1112 · Fed Old-Age Ins- Sal St Emp	3,761.48	5,707.30	-1,945.82	65.91%
1113 · Fed Old-Age Ins- Wage Earners	0.00	783.00	-783.00	0.0%
1114 · Group Insurance	538.32	760.97	-222.65	70.74%
1115 · Medical/Hospitalization Ins.	11,792.90	20,440.80	-8,647.90	57.69%
1116 · Retiree Medical/Hospitalizatn	522.21	738.59	-216.38	70.7%
1117 · Long term Disability Ins	348.20	492.39	-144.19	70.72%
Total 1110 · Employee Benefits	20,740.86	33,832.08	-13,091.22	61.31%
1120 · Salaries				
1123 · Salaries, Classified	52,491.37	74,605.27	-22,113.90	70.36%
1125 · Salaries, Overtime	0.00	200.00	-200.00	0.0%
Total 1120 · Salaries	52,491.37	74,805.27	-22,313.90	70.17%
1130 · Special Payments				
1131 · Bonuses and Incentives	0.00	0.00	0.00	0.0%
1138 · Deferred Compnstrn Match Pmts	391.00	816.00	-425.00	47.92%
Total 1130 · Special Payments	391.00	816.00	-425.00	47.92%
1140 · Wages				
1141 · Wages, General	0.00	10,026.00	-10,026.00	0.0%
Total 1140 · Wages	0.00	10,026.00	-10,026.00	0.0%
1160 · Terminatn Personal Svce Costs				
1165 · Employee Retirement Contributio	438.72	439.00	-0.28	99.94%
Total 1160 · Terminatn Personal Svce Costs	438.72	439.00	-0.28	99.94%
Total 1100 · Personal Services	74,061.95	119,918.35	-45,856.40	61.76%

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
July 1, 2011 through February 29, 2012

104- Funeral Directors and Emba				
	<u>Jul '11 - Feb' 12</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
1200 · Contractual Services				
1210 · Communication Services				
1211 · Express Services	35.46	500.00	-464.54	7.09%
1214 · Postal Services	1,454.82	4,500.00	-3,045.18	32.33%
1215 · Printing Services	0.00	400.00	-400.00	0.0%
1216 · Telecommunications Svcs (DIT)	332.92	800.00	-467.08	41.62%
Total 1210 · Communication Services	<u>1,823.20</u>	<u>6,200.00</u>	<u>-4,376.80</u>	<u>29.41%</u>
1220 · Employee Development Services				
1221 · Organization Memberships	0.00	500.00	-500.00	0.0%
1224 · Emp Trning Courses, Wkshp & Cnf	250.00	500.00	-250.00	50.0%
1225 · Employee Tuition Reimbursement	315.00	900.00	-585.00	35.0%
Total 1220 · Employee Development Services	<u>565.00</u>	<u>1,900.00</u>	<u>-1,335.00</u>	<u>29.74%</u>
1240 · Mgmnt and Informational Svcs				
1242 · Fiscal Services	28.13	9,520.00	-9,491.87	0.3%
1244 · Management Services	13.96			
1247 · Legal Services	835.00	550.00	285.00	151.82%
Total 1240 · Mgmnt and Informational Svcs	<u>877.09</u>	<u>10,070.00</u>	<u>-9,192.91</u>	<u>8.71%</u>
1260 · Support Services				
1264 · Food & Dietary Services	843.54	2,000.00	-1,156.46	42.18%
1266 · Manual Labor Services	137.98	700.00	-562.02	19.71%
1267 · Production Services	648.30	1,200.00	-551.70	54.03%
1268 · Skilled Services	0.00	1,241.00	-1,241.00	0.0%
Total 1260 · Support Services	<u>1,629.82</u>	<u>5,141.00</u>	<u>-3,511.18</u>	<u>31.7%</u>
1280 · Transportation Services				
1282 · Travel, Personal Vehicle	2,446.45	4,000.00	-1,553.55	61.16%
1283 · Travel, Public Carriers	0.00	700.00	-700.00	0.0%
1285 · Travel, Subsistence & Lodging	750.32	1,500.00	-749.68	50.02%
1288 · Trvl, Meal Reimb- Not Rptble	305.50	780.00	-474.50	39.17%
Total 1280 · Transportation Services	<u>3,502.27</u>	<u>6,980.00</u>	<u>-3,477.73</u>	<u>50.18%</u>
Total 1200 · Contractual Services	<u>8,397.38</u>	<u>30,291.00</u>	<u>-21,893.62</u>	<u>27.72%</u>
1300 · Supplies And Materials				
1310 · Administrative Supplies				
1311 · Apparel Supplies	5.28			
1312 · Office Supplies	355.33	700.00	-344.67	50.76%
1313 · Stationery and Forms	71.20	-15.00	86.20	-474.67%
Total 1310 · Administrative Supplies	<u>431.81</u>	<u>685.00</u>	<u>-253.19</u>	<u>63.04%</u>
1360 · Residential Supplies				
1362 · Food and Dietary Supplies	0.00	50.00	-50.00	0.0%
1363 · Food Service Supplies	3.11	50.00	-46.89	6.22%
Total 1360 · Residential Supplies	<u>3.11</u>	<u>100.00</u>	<u>-96.89</u>	<u>3.11%</u>
1370 · Specific Use Supplies				
1373 · Computer Operating Supplies	8.89			

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
July 1, 2011 through February 29, 2012

	104- Funeral Directors and Emba			
	<u>Jul '11 - Feb' 12</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
Total 1370 · Specific Use Supplies	<u>8.89</u>			
Total 1300 · Supplies And Materials	443.81	785.00	-341.19	56.54%
1400 · Transfer Payments				
1410 · Awards, Contrib., and Claims				
1413 · Premiums	<u>180.00</u>			
Total 1410 · Awards, Contrib., and Claims	<u>180.00</u>			
Total 1400 · Transfer Payments	180.00			
1500 · Continuous Charges				
1510 · Insurance-Fixed Assets				
1516 · Property Insurance	35.74	51.00	-15.26	70.08%
1510 · Insurance-Fixed Assets - Other	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.0%</u>
Total 1510 · Insurance-Fixed Assets	<u>35.74</u>	<u>51.00</u>	<u>-15.26</u>	<u>70.08%</u>
1530 · Operating Lease Payments				
1534 · Equipment Rentals	0.00	0.00	0.00	0.0%
1535 · Building Rentals	7.29			
1539 · Building Rentals - Non State	<u>5,550.28</u>	<u>8,288.00</u>	<u>-2,737.72</u>	<u>66.97%</u>
Total 1530 · Operating Lease Payments	<u>5,557.57</u>	<u>8,288.00</u>	<u>-2,730.43</u>	<u>67.06%</u>
1550 · Insurance-Operations				
1551 · General Liability Insurance	128.27	183.00	-54.73	70.09%
1554 · Surety Bonds	<u>7.57</u>	<u>11.00</u>	<u>-3.43</u>	<u>68.82%</u>
Total 1550 · Insurance-Operations	<u>135.84</u>	<u>194.00</u>	<u>-58.16</u>	<u>70.02%</u>
Total 1500 · Continuous Charges	5,729.15	8,533.00	-2,803.85	67.14%
2200 · Equipment Expenditures				
Electronic & Photo Equip Impr	0.69			
2210 · Computer Equipment				
2218 · Computer Software Purchases	<u>184.00</u>			
Total 2210 · Computer Equipment	<u>184.00</u>			
2220 · Educational & Cultural Equip				
2224 · Reference Equipment	<u>0.00</u>	<u>300.00</u>	<u>-300.00</u>	<u>0.0%</u>
Total 2220 · Educational & Cultural Equip	<u>0.00</u>	<u>300.00</u>	<u>-300.00</u>	<u>0.0%</u>
2260 · Office Equipment				
2262 · Office Furniture	0.00	200.00	-200.00	0.0%
2263 · Office Incidentals	<u>29.89</u>			
Total 2260 · Office Equipment	<u>29.89</u>	<u>200.00</u>	<u>-170.11</u>	<u>14.95%</u>
Total 2200 · Equipment Expenditures	<u>214.58</u>	<u>500.00</u>	<u>-285.42</u>	<u>42.92%</u>
Total Direct Expenditures	<u>89,026.87</u>	<u>160,027.35</u>	<u>-71,000.48</u>	<u>55.63%</u>
9001 · Allocated Expenditures				
9206 · Funeral\LTCA\PT	62,322.84	89,715.46	-27,392.62	69.47%

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
July 1, 2011 through February 29, 2012

	104- Funeral Directors and Emba			
	<u>Jul '11 - Feb' 12</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
9301 · DP Operations & Equipment	67,499.48	138,158.88	-70,659.40	48.86%
9302 · Human Resources	8,537.23	12,462.60	-3,925.37	68.5%
9303 · Finance	14,134.34	22,249.56	-8,115.22	63.53%
9304 · Director's Office	7,597.81	12,263.52	-4,665.71	61.96%
9305 · Enforcement	130,549.24	164,598.84	-34,049.60	79.31%
9306 · Administrative Proceedings	29,290.97	16,468.20	12,822.77	177.86%
9307 · Impaired Practitioners	0.00	12.96	-12.96	0.0%
9308 · Attorney General	18,763.54	25,290.72	-6,527.18	74.19%
9309 · Board of Health Professions	5,237.96	8,871.96	-3,634.00	59.04%
9311 · Moving Costs	0.00	801.36	-801.36	0.0%
9313 · Emp. Recognition Program	46.75	419.04	-372.29	11.16%
9314 · Conference Center	108.87	626.04	-517.17	17.39%
9315 · Pgm Devlpmt & Implmentn	3,344.85	5,402.99	-2,058.14	61.91%
987900 · Cash Trsfr Out- Appr Act Pt. 3	0.00	1,530.36	-1,530.36	0.0%
Total 9001 · Allocated Expenditures	<u>347,433.88</u>	<u>498,872.49</u>	<u>-151,438.61</u>	<u>69.64%</u>
Total Direct and Allocated Expenditures	<u>436,460.75</u>	<u>658,899.84</u>	<u>-222,439.09</u>	<u>66.24%</u>
Net Cash Surplus\Shortfall	<u><u>-220,540.75</u></u>	<u><u>-116,729.84</u></u>	<u><u>-103,810.91</u></u>	<u><u>188.93%</u></u>

Virginia Department of Health Professions

Patient Care Disciplinary Case Processing Times:

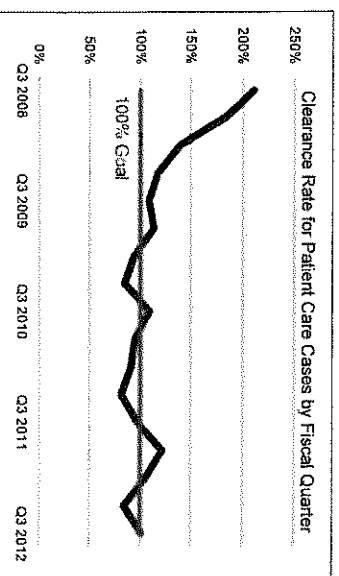
Quarterly Performance Measurement, Q3 2008 - Q3 2012

Dianne Reynolds-Cane, M.D.
Director

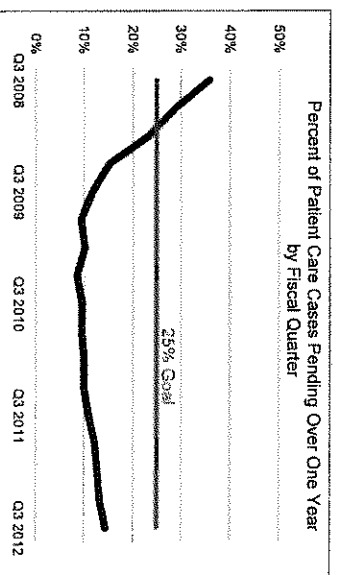
"To ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public."
DHP Mission Statement

In order to uphold its mission relating to discipline, DHP continually assesses and reports on performance. Extensive trend information is provided on the DHP website. In biennial reports, and, most recently, on Virginia Performs through Key Performance Measures (KPMs), KPMs offer a concise, balanced, and data-based way to measure disciplinary case processing. These three measures, taken together, enable staff to identify and focus on areas of greatest importance in managing the disciplinary caseload: Clearance Rate, Age of Pending Caseload and Time to Disposition uphold the objectives of the DHP mission statement. The following pages show the KPMs by board, listed in order by caseload volume; volume is defined as the number of cases received during the previous 4 quarters. In addition, readers should be aware that vertical scales on the line charts change, both across boards and measures, in order to accommodate varying degrees of data fluctuation.

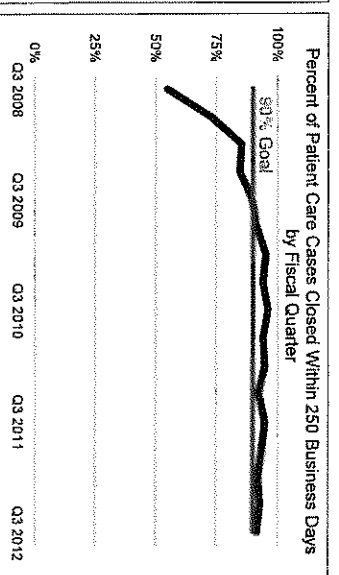
Clearance Rate - the number of closed cases as a percentage of the number of received cases. A 100% clearance rate means that the agency is closing the same number of cases as it receives each quarter. DHP's goal is to maintain a 100% clearance rate of allegations of misconduct through the end of FY 2012. The current quarter's clearance rate is 101%, with 985 patient care cases received and 998 closed.



Age of Pending Caseload - the percent of open patient care cases over 250 business days old. This measure tracks the backlog of patient care cases older than 250 business days to aid management in providing specific closure targets. The goal is to maintain the percentage of open patient care cases older than 250 business days at no more than 25% through the end of FY 2012. That goal continues to be achieved with the percent of cases pending over 250 business days dropping dramatically from 45% to 15%. For the last quarter shown, there were 1817 patient care cases pending, with 264 pending over 250 business days.



Time to Disposition - the percent of patient care cases closed within 250 business days for cases received within the preceding eight quarters. This moving eight-quarter window approach captures the vast majority of cases closed in a given quarter and effectively removes any undue influence of the oldest cases on the measure. The goal is to resolve 90% of patient care cases within 250 business days through the end of FY 2012. That goal continues to be achieved with 92% percent of patient care cases being resolved within 250 business days this past quarter. During the last quarter, there were 986 patient care cases closed, with 904 closed within 250 business days.



Virginia Department of Health Professions - Patient Care Disciplinary Case Processing Times, by Board

Clearance Rate

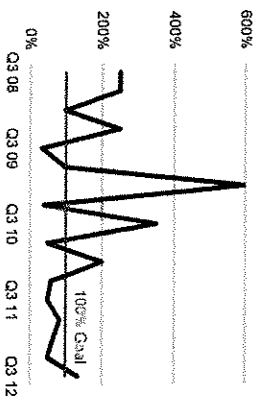
Physical Therapy - In Q3 2012, the clearance rate was 133%, the Pending Caseload older than 250 business days was 10% and the percent closed within 250 business days was 100%.

Q3 2012 Caseloads:

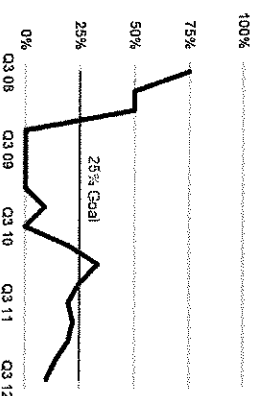
Received=6, Closed=8

Pending over 250 days=1

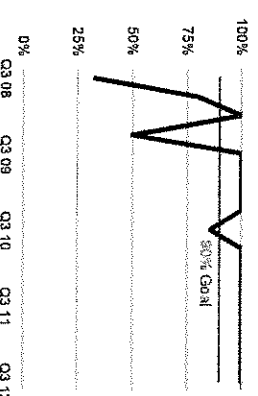
Closed within 250 days=0



Age of Pending Caseload (percent of cases pending over one year)



Percent Closed in 250 Business Days



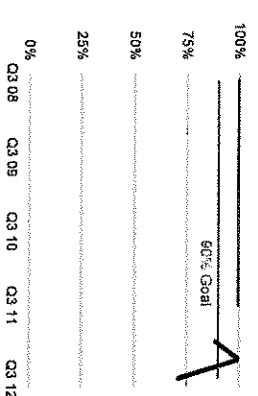
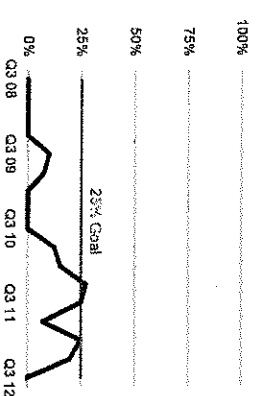
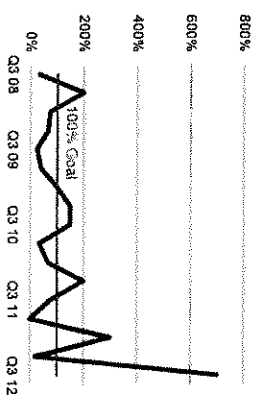
Funeral - In Q3 2012, the clearance rate was 700%, the Pending Caseload older than 250 business days was 0% and the percent closed within 250 business days was 71%.

Q3 2012 Caseloads:

Received=1, Closed=7

Pending over 250 days=0

Closed within 250 days=5



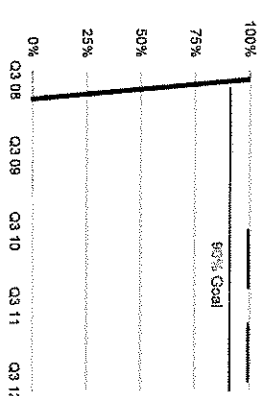
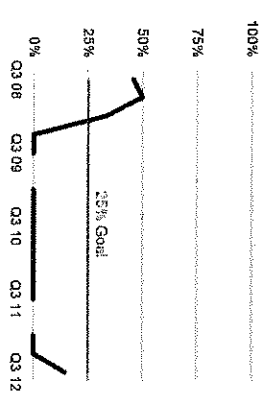
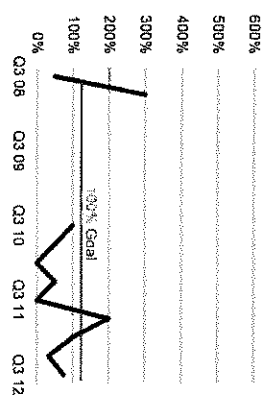
Audiology - In Q3 2012, the clearance rate was 75%, the Pending Caseload older than 250 business days was 14% and the percent closed within 250 business days was 100%.

Q3 2012 Caseloads:

Received=4, Closed=3

Pending over 250 days=1

Closed within 250 days=3



Note: Vertical scales on line charts change, both across boards and measures, in order to accommodate varying degrees of data fluctuation.

Disciplinary Case Report for Funeral Directors

April 24, 2012

Investigations	17
Probable Cause	10
APD	6
Informal Stage	5
Formal Stage	0
Total	38

Compliance Inspections Ordered	3
FDE Cases being Monitored by Compliance Manager	13

Data as of 04/10/2012

License Count Report for Funeral Directors

April 24, 2012

Branch Establishment	49
Continuing Education Provider	24
Courtesy Card	51
Crematories	92
Funeral Establishments	435
Funeral Service Interns	147
Embalmer	5
Funeral Service Director	65
Funeral Service Providers	1,430
Funeral Service Supervisors	320
Surface Transportation & Removal Services	44
Total	2,662

Tab 3

**Information
will be
provided at the
meeting**

Tab 4

VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

DISPOSITION OF DISCIPLINARY CASES FOR PRACTICING ON EXPIRED LICENSES

The Board of Funeral Directors and Embalmers delegates to the Executive Director for the Board the authority to offer a prehearing consent order to resolve disciplinary cases in which a Funeral Service Licensee or Funeral Service Establishment has been found to be practicing with an expired license.

Disciplinary Action for Practicing with an Expired License

The Board adopted the following guidelines for resolution of cases of practicing with an expired license:

Cause	Possible Action
First offense; 90 days or less	Confidential Consent Agreement
First offense; 91 days to two years	Consent Order; Monetary Penalty of \$500
First offense; more than two years	Consent Order; Monetary Penalty of \$1000
Second offense	Consent Order; Monetary Penalty of \$1500

Tab 5

VIRGINIA:

BEFORE THE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

**IN RE: KIPLIN LANE JORDAN, F.S.L.
 License No. 0502-860009**

CONSENT ORDER

By letter dated September 4, 2007, the Virginia Board of Funeral Directors and Embalmers ("Board") summarily suspended Mr. Jordan's license to practice funeral services and noticed Mr. Jordan for a formal administrative hearing to review his compliance with the Board's Order entered October 25, 2006, and to determine if Mr. Jordan has violated certain laws and regulations governing the practice of funeral services in the Commonwealth of Virginia.

In lieu of proceeding to this formal administrative hearing, the Board and Mr. Jordan, as evidenced by their signatures affixed below, agree to enter into this Consent Order affecting the license of Mr. Jordan to practice funeral services in Virginia.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Kiplin Lane Jordan holds license number 0502-860009 issued by the Board to practice funeral services in the Commonwealth of Virginia. Said license was summarily suspended by the Board on September 4, 2007.

2. Mr. Jordan is in violation of Term 2 of the Consent Order entered October 25, 2006, in that he was required to retake and successfully pass the Virginia Board of Funeral Directors and Embalmers State Examination for Licensure during his probationary period. Mr. Jordan has not submitted the necessary documents to take the examination.

3. Mr. Jordan is in violation of Term 3 of the Consent Order entered October 25, 2006, in that he was required to cease and desist as the manager of record for K. L. Jordan Funeral and Cremation Services ("K. L. Jordan") while on probation. Mr. Jordan was required to submit

documentation identifying the new manager of record, with the new manager sending the required documentation of his position as the manager of record for K. L. Jordan. Mr. Jordan has not submitted documentation naming a new manager of record, nor has a new manager of record provided the required documentation of his position as the manager of record with K. L. Jordan.

4. Mr. Jordan is in violation of Term 5 of the Consent Order entered October 25, 2006, in that he was required to maintain a course of conduct in his practice of funeral services commensurate with the requirements of Title 54.1, Chapter 28 of the Code of Virginia (1950), as amended ("Code"), all applicable Board Regulations, and all laws of the Commonwealth while on probation. Specifically:

a. Mr. Jordan is in violation of § 54.1-2806(2) and (3) of the Code, in that he received an overpayment in the amount of \$4,875.74 for Decedent A's funeral. After attempting, in good faith, to collect the refund from Mr. Jordan through telephone calls and letters, the Administrator of Decedent A's estate sought relief through a Warrant in Debt. On or about October 30, 2006, a judgment was entered for Decedent A's estate that ordered Mr. Jordan to remit the amount of \$4,875.74 plus 6% interest from October 6, 2005, until paid and \$36.00 for court costs. Mr. Jordan has not refunded the estate.

b. Mr. Jordan is in violation of § 54.1-2806(2) and (3) of the Code, in that on or about June 27, 2006, Mr. Jordan sold Client B a preneed funeral contract in the amount of \$8,100.00. Mr. Jordan did not provide Client B with a General Price List of the goods and services he offers to his clients. On or about February 20, 2007, Client B sent a letter to Mr. Jordan cancelling the preneed contract and requesting a full refund. As of April 27, 2007, Client B had

not received his refund, and has filed a Warrant in Debt against Mr. Jordan. Contact with the two insurance carriers that Mr. Jordan has been appointed to represent reveals that Mr. Jordan has not written a preneed funeral policy in the name of Client B.

c. Mr. Jordan is in violation of § 54.1-2806(2) and (3) of the Code, in that Mr. Jordan failed to provide Decedent C's daughter with an itemized statement of goods and services in a timely manner. Further, Mr. Jordan filed a Virginia Claim Form with Fore Thought authorizing payment by the preneed insurance carrier with a forged signature of Decedent C's daughter, which was dated approximately one month prior to Decedent C's death.

5. Mr. Jordan is in violation of Term 6 of the Consent Order entered October 25, 2006, which required that Mr. Jordan cooperate fully with the Board and the Department of Health Professions ("DHP") in any investigation or inspection while on probation. Specifically:

a. On several occasions DHP Senior Investigator Jennifer Challis requested a response from Mr. Jordan regarding the cases she was investigating for the Board. By certified letters dated January 24, 2007, Ms. Challis requested a written response from Mr. Jordan regarding two separate complaints. Mr. Jordan was given until February 7, 2007 to respond. Although the letters were received and signed for, Mr. Jordan did not respond to Ms. Challis' request.

b. On February 21, 2007, Mr. Jordan refused to allow Ms. Challis and DHP Senior Inspector Leith Ellis to conduct a routine inspection of K. L. Jordan.

c. On August 30, 2007, Mr. Jordan refused to allow DHP Senior Inspector Leith Ellis to conduct a routine inspection of K. L. Jordan.

d. By letter dated April 16, 2007, to Mr. Jordan's attorney, with a copy to Mr. Jordan, Ms. Challis requested additional documentation and a written response to Client B's complaint by April 12, 2007. Neither Mr. Jordan nor his attorney responded to Ms. Challis' request.

6. Mr. Jordan is in violation of Term 7 of the Consent Order entered October 25, 2006, which required Mr. Jordan to return all copies of his current license within ten (10) days of entry of the Consent Order, for issuance of a new license marked "Probation with Terms." On November 4, 2006, Mr. Jordan's current license was due to be returned to his Compliance Case Manager. Mr. Jordan did not return his license until November 8, 2006.

7. Mr. Jordan is in violation of § 54.1-2806(2) and (3) of the Code, in that on or about April 17, 2007, Mr. Jordan conducted funeral services for Decedent D. Mr. Jordan received an overpayment approximately in the amount of \$3,084.55 for Decedent D's funeral expenses from two life insurance policies on Decedent D. Mr. Jordan has failed to refund Decedent D's family the overpaid amount, although they have requested a refund in writing and by telephone.

8. Mr. Jordan is in violation of § 54.1-2806(2) and (3) of the Code, in that, on or about December 27, 2006, Mr. Jordan conducted funeral services for Decedent E. Mr. Jordan received overpayments in the amounts of approximately \$15,140.99 and \$52,461.29 for Decedent E's funeral expenses from a life insurance policy on Decedent E. Mr. Jordan has failed to refund Decedent E's family the overpaid amount, although they have requested a refund in writing and by telephone.

CONSENT

Kiplin Lane Jordan, F.S.L., by affixing his signature hereon, agrees to the following:

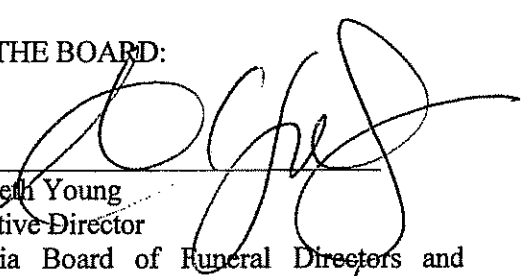
1. He has been advised specifically to seek the advice of counsel prior to signing this document;
2. He is fully aware that without his consent, no legal action can be taken against his license except pursuant to the Virginia Administrative Process Act, § 2.2-4000.A et seq. of the Code of Virginia;
3. He has the following rights, among others:
 - a. the right to a formal administrative hearing before the Board;
 - b. the right to appear in person or by counsel, or other qualified representative before the agency; and
 - c. the right to cross – examine witnesses against him.
4. He waives all rights to a formal administrative hearing;
5. He admits the truth of the above Findings of Fact and Conclusions of Law; and
6. He consents to the following Order affecting his license to practice funeral services in the Commonwealth of Virginia.

ORDER

WHEREFORE, on the basis of the foregoing Findings of Fact and Conclusions of Law, and with the consent of the licensee, it is hereby ORDERED that the license of Kiplin Lane Jordan, F.S.L., be REVOKED.

Pursuant to § 2.2-4023 and § 54.1-2400.2 of the Code of Virginia, the signed original of this Consent Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public release, inspection and copying upon request.

FOR THE BOARD:


Elizabeth Young
Executive Director
Virginia Board of Funeral Directors and
Embalmers

ENTERED: 10/9/07

SEEN AND AGREED TO:


Kiplin Lane Jordan, F.S.L.

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Richmond

Subscribed and sworn to before me, a Notary Public in and for the Commonwealth of Virginia, at large, this 8th day of October, 2007, by Kiplin Lane Jordan, F.S.L.


Notary Public

My Commission Expires: 9/30/2009

Registration No.: 145796

